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8 **BEFORE THE**  
**BOARD OF PHARMACY**  
9 **DEPARTMENT OF CONSUMER AFFAIRS**  
**STATE OF CALIFORNIA**

10 In the Matter of the Accusation Against:

Case No. 4140

11 **LAURA R. MCEDWARD**  
12 **6298 Autumn Trail**  
13 **Burlington, KY 41005**

**A C C U S A T I O N**

14 **Pharmacy Technician License No. TCH 61602**

15 Respondent.

16 Complainant alleges:

17 **PARTIES**

18 1. Virginia Herold (Complainant) brings this Accusation solely in her official capacity  
19 as the Executive Officer of the Board of Pharmacy, Department of Consumer Affairs.

20 2. On or about March 24, 2005, the Board of Pharmacy issued Pharmacy Technician  
21 License No. TCH 61602 to Laura R. McEdward (Respondent). The License was in full force and  
22 effect at all times relevant to charges herein and will expire on April 30, 2013, unless renewed.

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24 **JURISDICTION**

25 3. This Accusation is brought before the Board of Pharmacy (Board), Department of  
26 Consumer Affairs, under the authority of the following laws. All section references are to the  
27 Business and Professions Code (Code) unless otherwise indicated.

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1       4.     Section 4011 of the Code provides that the Board shall administer and enforce both  
2 the Pharmacy Law [Bus. & Prof. Code, § 4000 et seq.] and the Uniform Controlled Substances  
3 Act [Health & Safety Code, § 11000 et seq.].

4       5.     Section 4300(a) of the Code provides that every license issued by the Board may be  
5 suspended or revoked.

6       6.     Section 118(b) of the Code provides, in pertinent part, that the suspension, expiration,  
7 surrender, or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
8 disciplinary action during the period within which the license may be renewed, restored, reissued  
9 or reinstated. Section 4402(a) of the Code provides that any pharmacist license that is not  
10 renewed within three years following its expiration may not be renewed, restored, or reinstated  
11 and shall be canceled by operation of law at the end of the three-year period. Section 4402(e) of  
12 the Code provides that any other license issued by the Board may be canceled by the Board if not  
13 renewed within 60 days after its expiration, and will require a new application.

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15                                   STATUTORY AND REGULATORY PROVISIONS

16       7.     Section 4301 of the Code provides, in pertinent part, that the Board shall take action  
17 against any holder of a license who is guilty of “unprofessional conduct,” defined to include, but  
18 not be limited to, any of the following:

19           (f) The commission of any act involving moral turpitude, dishonesty, fraud, deceit, or  
20 corruption, whether the act is committed in the course of relations as a licensee or otherwise, and  
21 whether the act is a felony or misdemeanor or not.

22           (h) The administering to oneself, of any controlled substance, or the use of any dangerous  
23 drug or of alcoholic beverages to the extent or in a manner as to be dangerous or injurious to  
24 oneself, to a person holding a license under this chapter, or to any other person or to the public, or  
25 to the extent that the use impairs the ability of the person to conduct with safety to the public the  
26 practice authorized by the license.

27           (j) The violation of any of the statutes of this state, of any other state, or of the United  
28 States regulating controlled substances and dangerous drugs.

1 (o) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the  
2 violation of or conspiring to violate any provision or term of this chapter or of the applicable  
3 federal and state laws and regulations governing pharmacy, including regulations established by  
4 the board or by any other state or federal regulatory agency.

5 8. California Code of Regulations, title 16, section 1770, states:

6 "For the purpose of denial, suspension, or revocation of a personal or facility license  
7 pursuant to Division 1.5 (commencing with Section 475) of the Business and Professions Code, a  
8 crime or act shall be considered substantially related to the qualifications, functions or duties of a  
9 licensee or registrant if to a substantial degree it evidences present or potential unfitness of a  
10 licensee or registrant to perform the functions authorized by her license or registration in a  
11 manner consistent with the public health, safety, or welfare."

12 9. Section 4059 of the Code, in pertinent part, prohibits furnishing of any dangerous  
13 drug or dangerous device except upon the prescription of an authorized prescriber.

14 10. Section 4060 of the Code provides, in pertinent part, that no person shall possess any  
15 controlled substance, except that furnished upon a valid prescription/drug order.

16 11. Health and Safety Code section 11170 provides that no person shall prescribe,  
17 administer, or furnish a controlled substance for himself or herself.

18 12. Health and Safety Code section 11173, subdivision (a), provides that no person shall  
19 obtain or attempt to obtain controlled substances, or procure or attempt to procure the  
20 administration of or prescription for controlled substances, (1) by fraud, deceit, misrepresentation,  
21 or subterfuge; or (2) by the concealment of a material fact.

22 13. Health and Safety Code section 11350, in pertinent part, makes it unlawful to possess  
23 any controlled substance listed in Schedule II (Health and Safety Code section 11055),  
24 subdivision (b) or (c), or any narcotic drug in Schedules III-V, absent a valid prescription.

25 14. Health and Safety Code section 11351, in pertinent part, makes it unlawful to possess  
26 for sale or purchase for sale any controlled substance listed in Schedule II (Health and Safety  
27 Code section 11055), subdivision (b) or (c), or any narcotic drug in Schedules III-V.

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1 COST RECOVERY

2 15. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
3 administrative law judge to direct a licensee found to have committed a violation of the licensing  
4 act to pay a sum not to exceed its reasonable costs of investigation and enforcement.  
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6 CONTROLLED SUBSTANCES / DANGEROUS DRUGS

7 16. Section 4021 of the Code states:

8 “‘Controlled substance’ means any substance listed in Chapter 2 (commencing with Section  
9 11053) of Division 10 of the Health and Safety Code.”

10 17. Section 4022 of the Code states, in pertinent part:

11 “‘Dangerous drug’ or ‘dangerous device’ means any drug or device unsafe for self use,  
12 except veterinary drugs that are labeled as such, and includes the following:

13 “(a) Any drug that bears the legend: ‘Caution: federal law prohibits dispensing without  
14 prescription,’ ‘Rx only,’ or words of similar import.

15 ...

16 “(c) Any other drug or device that by federal or state law can be lawfully dispensed only on  
17 prescription or furnished pursuant to Section 4006.”

18 18. **OxyContin** is a brand name for **oxycodone hydrochloride**, a Schedule II controlled  
19 substance as designated by Health and Safety Code section 11055(b) and a dangerous drug as  
20 designated by Business and Professions Code section 4022. It is a narcotic drug.  
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22 FACTUAL BACKGROUND

23 19. From an unknown start date until on or about November 17, 2010, Respondent  
24 worked as a pharmacy technician at Moms Pharmacy (PHY 50165) in San Francisco, CA, where  
25 by virtue of her employment she had access to controlled substances and dangerous drugs.

26 20. During the tenure of her employment with Moms Pharmacy, Respondent used her  
27 access to divert/steal controlled substances and dangerous drugs, including **OxyContin** or other  
28 controlled substances/dangerous drugs containing **oxycodone**.

21. The exact number of instances of diversion/theft by Respondent, and the full quantity of controlled substances or dangerous drugs diverted/stolen, are not known, but in the course of investigations conducted by Moms Pharmacy and by police, the following were reported:

a. On or prior to November 17, 2010, an audit at the corporate level of Moms Pharmacy discovered discrepancies in the ordering and inventory of **OxyContin/oxycodone**.

b. When staff were notified of the discrepancies, Respondent came forward with a confession that she had taken ten (10) or eleven (11) bottles of **OxyContin** (100 pills per bottle).

c. The audit identified approximately twenty (20) bottles of **OxyContin** missing.

d. Respondent subsequently admitted to San Francisco Police that between April 2009 and June 2010 she had taken approximately twenty (20) bottles of **OxyContin**, with a value of approximately \$22,000.00, from the stock of her employer, Moms Pharmacy. Respondent also admitted to police that she took the narcotics without consent, did so willingly, and that she sold the narcotics at various locations in San Francisco in order to supplement her income.

FIRST CAUSE FOR DISCIPLINE

(Acts Involving Moral Turpitude, Dishonesty, Fraud, Deceit or Corruption)

22. Respondent is subject to discipline under section 4301(f) of the Code, in that Respondent, as described in paragraphs 19 to 21 above, committed numerous acts involving moral turpitude, dishonesty, fraud, deceit, or corruption.

## SECOND CAUSE FOR DISCIPLINE

(Furnishing of Controlled Substance(s))

23. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4059 of the Code, and/or Health and Safety Code section 11170, in that Respondent, as described in paragraphs 19 to 21 above, furnished to herself or another, and/or conspired to furnish, and/or assisted or abetted furnishing of, a controlled substance/dangerous drug, without a prescription.

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THIRD CAUSE FOR DISCIPLINE

(Possession of Controlled Substance(s))

24. Respondent is subject to discipline under section 4301(j) and/or (o) and/or section 4060 of the Code, and/or Health and Safety Code section 11350, in that Respondent, as described in paragraphs 19 to 21 above, possessed, conspired to possess, and/or assisted in or abetted possession of, a controlled substance, without a prescription.

FOURTH CAUSE FOR DISCIPLINE

(Obtaining Controlled Substance by Fraud, Deceit or Subterfuge)

25. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11173(a), in that Respondent, as described in paragraphs 19 to 21 above, obtained, conspired to obtain, and/or assisted in or abetted the obtaining of a controlled substance, by fraud, deceit, subterfuge, or concealment of material fact.

FIFTH CAUSE FOR DISCIPLINE

(Possession or Purchase of Controlled Substance(s) for Sale)

26. Respondent is subject to discipline under section 4301(j) and/or (o) of the Code, and/or Health and Safety Code section 11351, in that Respondent, as described in paragraphs 19 to 21 above, possessed or purchased for sale, conspired to possess or purchase for sale, and/or assisted in or abetted the possession or purchase for sale, of a controlled substance.

SIXTH CAUSE FOR DISCIPLINE

(Unprofessional Conduct)

27. Respondent is subject to discipline under section 4301 of the Code in that Respondent, as described in paragraphs 19 to 26 above, engaged in unprofessional conduct.

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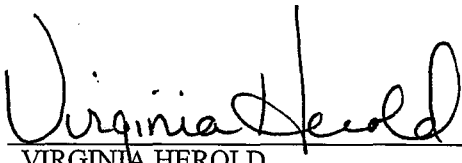
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PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Board of Pharmacy issue a decision:

1. Revoking or suspending Pharmacy Technician License No. TCH 61602, issued to Laura R. McEdward (Respondent);
2. Ordering Respondent to pay the Board the reasonable costs of the investigation and enforcement of this case, pursuant to Business and Professions Code section 125.3;
3. Taking such other and further action as is deemed necessary and proper.

DATED: 9/23/11

  
VIRGINIA HEROLD  
Executive Officer  
Board of Pharmacy  
Department of Consumer Affairs  
State of California  
*Complainant*

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